

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSELITO BARCELON BALTAZAR;
BELLA ENCARNACION BALTAZAR;
JOHN JESSY ENCARNACION
BALTAZAR,

Petitioners,

v.

MICHAEL B. MUKASEY, * Attorney
General,

Respondent.

No. 05-76111

Agency Nos. A71-578-360
A71-578-361
A71-578-362

MEMORANDUM **

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 3, 2007***

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

* Pursuant to Fed. R. App. P. 43(c)(2), Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States.

** This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Joselito Barcelon Baltazar and family, natives and citizens of the Philippines, petition for review of an order of the Board of Immigration Appeals (“BIA”) upholding an immigration judge’s (“IJ”) decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence. *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003). We deny the petition for review.

For the asylum claim, substantial evidence supports the IJ’s conclusion that Baltazar’s experiences in the Philippines did not amount to past persecution. *See id.* Further, the evidence of a secondhand threat, made twenty years ago, does not compel a finding that future persecution is an objectively reasonable possibility. *See Nahrvani v. Gonzales*, 399 F.3d 1148, 1153-54 (9th Cir. 2005).

Failure to meet the standard for asylum necessarily precludes Baltazar from establishing eligibility for withholding of removal. *See Ghaly v. INS*, 58 F.3d 1425, 1429 (9th Cir. 1995).

We also uphold the BIA’s denial of Baltazar’s claim for relief under CAT because Baltazar has not established that if removed he would more likely than not be tortured or that torture would be inflicted with the consent or acquiescence of

the government of the Philippines. *See* 8 C.F.R. § 208.16(c); *Zheng v. Ashcroft*, 332 F.3d 1186, 1188, 1194 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.